



UNITED STATES DEPARTMENT OF COMMERCE
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08/687,774

APPLICATION NUMBER	08/687,774	FILING DATE	06/26/96	FIRST NAMED APPLICANT	NORBECK	ATTY. DOCKET NO.	D 5778.US.01
						EXAMINER	

12M2/0423

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1203
DATE MAILED: 04/23/97

PAPER NUMBER 3

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is FINAL.
- ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-44 is/are pending in the application.
- ☐ Of the above, claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-44 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☒ Notice of Reference Cited, PTO-892
- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) 1
- ☐ Interview Summary, PTO-413
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Notice of Informal Patent Application, PTO-152

SEE ACTION ON THE FOLLOWING PAGES

Art Unit: 1203

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

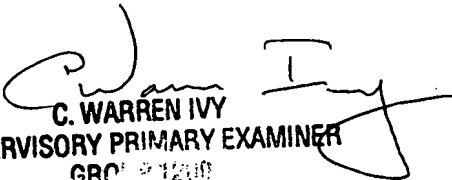
2. Claims 1- 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kempf (U.S. Patent no. 5,552,558), cited on form 892.

Kempf discloses Retroviral Protease Inhibiting Compounds of formula A (see column 2, lines 35-40) which are identical to the compound Ritonavir of the instant invention, a composition and a method for inhibiting retroviral proteases and in particular HIV protease, a composition and method for treating a retroviral infection and in particular an HIV infection (see column 1, lines 30-34). Kempf also suggests that compounds of the present invention can be combined with any agents useful for the treatment or prophylaxis of AIDS or an HIV infection (see column 109, lines 29-34). Therefore, it is the examiner's position that it would have been obvious to one skilled in the art to combine Ritonavir with other HIV protease inhibitors for treating an HIV infection since Kempf suggests this teaching. Furthermore, it is also the examiner's position that a method for improving the pharmacokinetics of a drug or increasing the blood levels of a drug by combining two drugs simply means enhancing the efficacy of combination treatment and

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therefore, would have been obvious to one skilled in the art since Kempf suggests combining Ritonavir with other HIV protease inhibitors or a variety of other drugs (see column 108, lines 58-67 and column 109, lines 1-35).

2. Any inquiry concerning this communication should be directed to Chana Aulakh at (703) 305-4482.


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